

AMENDMENTS TO THE DRAWINGS

The drawings were objected to as failing to comply with 37 C.F.R. § 1.84(p)(5) because they allegedly do not include certain reference sign(s) mentioned in the description (¶ 45, wireless link 119). The Applicant respectfully traverses this objection since the wireless link 119 is properly indicated and may be seen between blocks 101 and 109 in FIG. 1. The Applicant submits that the objection to the drawings should be withdrawn.

Ten amended drawing figures are attached herewith as replacement sheets. The ten amended drawing figures are numbered 3-8, 9A-9B and 10-11. The Applicant submits that no new matter has been introduced by the amendments to the drawings.

REMARKS / ARGUMENTS

The present application includes pending claims 1-31, all of which have been rejected. By this Amendment, claims 2-3, 5-10, 12-13, 15-20, and 30 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-31 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 1, 7, 11, 17, 21, 27, and 31 stand rejected under 35 U.S.C. § 102(b) as being anticipated by "The Gnutella Protocol Specification v0.4" (hereinafter, Gnutella). Claims 2-4, 8-10, 12-14, 18-20, 22-24, and 28-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gnutella. Claims 5-6, 15-16, and 25-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gnutella in view of U.S. Patent Application Publication No. 2002/0194309 (hereinafter, Carter). The Applicant respectfully traverses these rejections at least based on the following remarks.

I. DRAWINGS

The drawings were objected to as failing to comply with 37 C.F.R. § 1.84(p)(5) because they allegedly do not include certain reference sign(s) mentioned in the

description (¶ 45, wireless link 119). The Applicant respectfully traverses this objection since the wireless link 119 is properly indicated and may be seen between blocks 101 and 109 in FIG. 1. The Applicant submits that the objection to the drawings should be withdrawn.

Ten amended drawing figures are attached herewith as replacement sheets. The ten amended drawing figures are numbered 3-8, 9A-9B and 10-11. The Applicant submits that no new matter has been introduced by the amendments to the drawings.

II. SPECIFICATION

The specification was objected to because of informalities. The Applicant submits herewith amendments to the specification to overcome these objections.

The Office Action also states:

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(0). Correction of the following is required: Claims 11-20 are drawn towards a machine-readable storage that performs certain steps. However, this functionality is not fully disclosed in the specification.

See the Office Action at page 3. The Applicant points out that support for claims 11-20 may be found in the "Brief Summary of the Invention" section of the present application (e.g., ¶13), as well as ¶95. The Applicant submits that the objections to the specification should be withdrawn.

III. REJECTION UNDER 35 U.S.C. § 112

Claims 1-31 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action further states:

With regard to claim 1, the first step is "detecting availability of at least one of new media, data and service within the distributed network." The next step mentions "said newly available at least one of new media, data and service." However, the term "newly available" lacks antecedent basis, as the detecting step never indicated that the media is "newly available," nor is there an implication that the media is "newly available," only that the media is newly detected as being available. For purposes of prosecution, it is assumed that each reference to "said newly available at least one of a new media, data and service" actually reads "said available at least one of a new media, data and service."

Claims 11 and 21 are rejected for similar reasons as claim 1.

Claims 2-10, 12-20, and 22-31, which depend from claims 1, 11, and 21, respectively, are rejected for similar reasons as claim 1.

See Office Action at pages 3-4. The Applicant has amended independent claims 1, 11, and 21, as set forth above, to overcome this rejection.

REJECTION UNDER 35 U.S.C. § 102

IV. Gnutella Does Not Anticipate Claims 1, 7, 11, 17, 21, 27, and 31

The Applicant now turns to the rejection of claims 1, 7, 11, 17, 21, 27, and 31 under 35 U.S.C. 102(b) as being anticipated by Gnutella. With regard to the anticipation rejections under 102(b), MPEP 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See *id.* (internal citation omitted).

A. Rejection of Independent Claims 1, 11 and 21

With regard to the rejection of independent claim 1 under 102(b), the Applicant submits that Gnutella does not disclose or suggest at least the limitation of “detecting whether one or more of new media, data and/or service becomes newly available within the distributed network,” as recited by the Applicant in independent claim 1. The Office Action states the following:

With regard to claim 1, Gnutella discloses a method for communicating information in a distributed media network, the method comprising:

detecting availability of at least one of new media, data and service within the distributed network (Gnutella: Page 1, "Query". The "Query" descriptor is used for finding media that is available on the network.);

migrating said newly available at least one of new media, data and service to at least a first media processing system with the distributed media network (Gnutella: Page 1, "Push". "migrating" is interpreted as being equivalent to transfer (See specification paragraph [0011], where transfer and migrate seem to be interchangeable).); and

storing said migrated newly available at least one of new media, data and service at said least a first media processing system (Gnutella: Page 7. The file is downloaded, which means that the file is stored at the destination.).

See Office Action at pages 4-5. The Office Action relies for support on Gnutella's Query descriptor. The Applicant points out that the Query descriptor of the Gnutella protocol is used only for purposes of searching a local data set by the servant that receives the Query descriptor. See Gnutella at page 1. More specifically, **the Query descriptor is used to locate a match (and a QueryHit) against existing data within the local data set of the specific servant. The Query descriptor, as well as any of the remaining Gnutella descriptors, is not used for purposes of detecting whether media, data, and/or service becomes newly available.**

Therefore, the Applicant maintains that Gnutella does not disclose or suggest at least the limitation of "detecting whether one or more of new media, data and/or service becomes newly available within the distributed network," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Gnutella and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in

independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 7, 17, 27, and 31

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 102(b) as being anticipated by Gnutella has been overcome and requests that the rejection be withdrawn. Additionally, claims 7, 17, 27, and 31 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 7, 17, 27, and 31.

REJECTION UNDER 35 U.S.C. § 103

V. Gnutella Does Not Render Claims 2-4, 8-10, 12-14, 18-20, 22-24, and 28-30 Unpatentable

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 102(b) as being anticipated by Gnutella has been overcome and requests that the rejection be withdrawn. Claims 2-4, 8-10, 12-14, 18-20, 22-24, and 28-30 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable at least

for the reasons stated above with regard to allowability of claim 1. The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-4, 8-10, 12-14, 18-20, 22-24, and 28-30.

VI. The Proposed Combination of Gnutella and Carter Does Not Render Claims 5-6, 15-16, and 25-26 Unpatentable

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 102(b) as being anticipated by Gnutella has been overcome and requests that the rejection be withdrawn. Additionally, since the additional cited reference (Carter) does not overcome the deficiencies of Gnutella, claims 5-6, 15-16, and 25-26 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable at least for the reasons stated above with regard to allowability of claim 1. The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 5-6, 15-16, and 25-26.

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-31 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: 19-MAY-2008

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